

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
RUSSELL ALLEN RENFROW, JR.**

**RESPONDENT,**

**APPELLANT.**

---

DOCKET NUMBER WD78253

DATE: August 16, 2016

---

Appeal From:

Saline County Circuit Court  
The Honorable Dennis A. Rolf, Judge

---

Appellate Judges:

Division Four: Alok Ahuja, Presiding Judge, Gary D. Witt, Judge and Anthony Rex Gabbert,  
Judge

---

Attorneys:

Rachel Flaster, Jeferson City, MO, for respondent.

Samuel Buffaloe, Columbia, MO, for appellant.

---

**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**RUSSELL ALLEN RENFROW, JR.,**

**APPELLANT.**

No. WD78253

Saline County

Division Four: Alok Ahuja, Presiding Judge, Gary D. Witt, Judge and Anthony Rex Gabbert,  
Judge

Russell Renfrow ("Renfrow") appeals his conviction by the Circuit Court of Saline County for felony forcible rape under section 566.030, RSMo, and misdemeanor second-degree child molestation under section 566.068, RSMo. Renfrow argues that the circuit court plainly erred in permitting his probation officer to testify to incriminatory statements Renfrow had made. Renfrow also argues that his conviction for second-degree child molestation should be reversed, because section 566.068 should be interpreted to only apply to offenders who are 21 years of age or older.

**Majority Opinion holds:**

**AFFIRMED**

- (1) We review only Renfrow's conviction for forcible rape for plain error. The probation officer's testimony regarding Renfrow's incriminating statements was a violation of section 559.125.2. Renfrow, however, failed to demonstrate that the error resulted in manifest injustice. His guilt for forcible rape was established by overwhelming evidence. Further, he was given a bench trial and we presume that, unless expressly stated otherwise, the court ignored the impermissible evidence.
- (2) Renfrow failed to properly raise a claim for plain error review as to his conviction for child molestation.
- (3) The plain language of section 566.068 only requires that the victim be less than seventeen years of age. The court did not err in finding no requirement that the offender be 21 years of age or older.

**Dissenting Opinion:**

Judge Ahuja concurs in the affirmance of Renfrow's forcible rape conviction, and in the rejection of Renfrow's argument that the child molestation statute must be read to apply only to offenders over 21 years of age. Judge Ahuja dissents, however, from the majority refusal to reverse Renfrow's child molestation conviction for a new trial, based on the plainly erroneous admission of a probation officer's testimony that Renfrow had conceded having consensual sex with the victim when she was 14 or 15 years old. The statement attributed to Renfrow by the probation officer was tantamount to a confession, and the circuit court explicitly relied on this statement in finding Renfrow guilty of child molestation. Contrary to the majority, Judge Ahuja believes that Renfrow's briefing adequately argued that the erroneous admission of the probation officer's testimony justified reversal of his child molestation conviction. Even if the issue was wholly unbriefed, however, Judge Ahuja contends that plain error review is nevertheless warranted.

Majority Opinion by Gary D. Witt, Judge with Judge Gabbert joining  
Dissenting Opinion by Alok Ahuja, Judge

August 16, 2016

\*\*\*\*\*

This summary is UNOFFICIAL and should not be quoted or cited.
---